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ORIGINAL

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

UNITED STATES DISTRICT COURT
NORTHERN ~~EASTERN~~ DISTRICT OF TEXAS
PEER DIVISION
DALLAS

2021 JUN -1 PM 1:11

DEPUTY CLERK

MONA FIELDS,

Plaintiff,

v.

O'NEIL DATA SYSTEMS, INC.,

Defendant.

Case No.:

3-21CV1254-D

PLAINTIFF'S COMPLAINT WITH DEMAND FOR JURY TRIAL

COMES NOW Plaintiff, Mona Fields ("Plaintiff" or "Mona Fields"), through undersigned counsel, and files his Complaint and Demand for Jury Trial against Defendant, O'Neil Data Systems, Inc. ("Defendant" or "ODS"), and states the following:

NATURE OF THE CLAIMS

1. This is an action for monetary damages, pursuant to the Age Discrimination in Employment Act 29 U.S.C. §§ 621, *et seq.* (hereinafter the "ADEA"); and the Texas Commission on Human Rights Act, 1.3.3 Article 5221K, *et seq.* ("TCHR") to redress Defendant's unlawful employment practices against Plaintiff, including wrongful termination. Plaintiff alleges that Defendant engaged in an ongoing pattern and practice of discrimination and the promulgation of a hostile work environment, intentionally and systemically.

JURISDICTION AND VENUE

2. This Court has jurisdiction over Plaintiff's federal claims herein pursuant to 28

U.S.C. §§ 1331 and 1343, as this action involves federal questions regarding deprivation of Plaintiff's civil rights.

3. This Court has supplemental jurisdiction over Plaintiff's state claims pursuant to 28 U.S.C. §1367, as this action also involves state law question regarding deprivation of Plaintiff's civil rights.

4. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) because a substantial part of the events or omissions giving rise to this action, including Defendant's unlawful employment practices alleged herein, occurred in this District.

THE PARTIES

5. Plaintiff is a citizen of the United States, and is and was at all times material, a resident of the State of Texas, Dallas County.

6. Defendant, a California For-Profit Organization with its principal place of business located at 12655 Beatrice St Los Angeles, CA 90066-7300.

7. Defendant is an employer as defined by the laws under which this action is brought and employs the requisite number of employees.

PROCEDURAL REQUIREMENTS

8. Plaintiff has complied with all statutory prerequisites to filing this action.

9. On July 20, 2020, Plaintiff filed a discrimination claim with the Equal Employment Opportunity Commission ("EEOC") and the Texas Workforce Commission ("TWC"), against Defendant, satisfying the requirements of 42 U.S.C. § 2000e-5(b) and (e).

10. Mona's discrimination charge was filed within the required number of days after the alleged unlawful employment practices occurred.

11. On March 3, 2021 the EEOC issued to Plaintiff a Notice of Right to Sue, against Defendant.

12. This Complaint was filed within ninety days following Plaintiff's receipt of the EEOC's Notice of Right to Sue.

FACTUAL ALLEGATIONS

13. Plaintiff was employed by Defendant for approximately 3 months, and at the time Plaintiff's employment was terminated held the position of Corporate Recruiter.

14. At the time of Plaintiff's termination, she was the age 45.

15. Plaintiff was subjected to disparate treatment and discrimination due to Plaintiff's age with regards to the terms and conditions of Plaintiff's employment.

16. Plaintiff filed complaint with Human Resources.

17. Human Resources found in favor of plaintiff.

18. Upon the filing of the complaint, plaintiff was subject to being ostracized. Communication from defendant to plaintiff ceased after complaint.

19. Human Resources found in favor of plaintiff.

20. Plaintiff attempted on multiple occasions to communicate with Defendant with no success.

21. Similarly situated younger employees were treated more favorably than Plaintiff during Plaintiff's employment.

22. Plaintiff has been damaged by Defendant's illegal conduct.

23. Plaintiff has had to retain the services of undersigned counsel and has agreed to pay said counsel reasonable attorneys' fees.

Count I: Age Based Discrimination in Violation of the ADEA

24. Plaintiff re-alleges and adopts, as if fully set forth herein, the allegations stated in Paragraphs 1-32 above.

25. At all times relevant to this action, Plaintiff was in a protected category under the ADEA because of Plaintiff's age.

26. Defendant is prohibited under the ADEA from discriminating against Plaintiff because of Plaintiff's age with regard to discharge, employee compensation, and other terms, conditions, and privileges of employment.

27. Defendant violated the ADEA by unlawfully targeting and discriminating against Plaintiff based on Plaintiff's age.

28. Defendant intentionally discriminated against Plaintiff on the basis of Plaintiff's age.

29. Plaintiff has been damaged by the illegal conduct of Defendant.

30. Defendant's actions have caused Plaintiff to suffer mental and emotional distress, entitling Plaintiff to compensatory damages.

31. Defendant has engaged in discriminatory practices with malice and reckless indifference to Plaintiff's federally protected rights, thereby entitling Plaintiff to punitive damages.

Count II: Retaliation in Violation of the ADEA

32. Plaintiff re-alleges and adopts, as if fully set forth herein, the allegations stated in Paragraphs 1-32 above.

33. Plaintiff engaged in protected activity under the ADEA on more than one occasion while employed by Defendant.

34. Defendant engaged in intentional retaliation against Plaintiff for Plaintiff's participation in protected activity, specifically his repeated reports regarding the discrimination and hostile work environment Plaintiff was experiencing.

35. Defendant's conduct violated the ADEA.

36. Plaintiff has satisfied all statutory prerequisites for filing this action.

37. Defendant's discriminatory conduct, in violation of the ADEA, has caused Plaintiff to suffer a loss of pay, benefits, and prestige for which Plaintiff is entitled to damages.

38. Defendant's actions have caused Plaintiff to suffer mental and emotional distress, entitling Plaintiff to compensatory damages.

39. Defendant has engaged in discriminatory practices with malice and reckless indifference to Plaintiff's federally protected rights, thereby entitling Plaintiff to punitive damages.

Paragraphs 1-32 above.

49. Plaintiff engaged in protected activity under the TCHR on more than one occasion while employed by Defendant.

50. Defendant engaged in intentional retaliation against Plaintiff for Plaintiff's participation in protected activity.

51. Defendant's conduct violates the TCHR.

52. The Plaintiff has satisfied all statutory prerequisites for filing this action.

53. Defendant's discriminatory conduct, in violation of the TCHR, has caused the Plaintiff to suffer a loss of pay, benefits, and prestige for which Plaintiff is entitled to damages.

54. Defendant's actions have caused Plaintiff to suffer mental and emotional distress, entitling Plaintiff to compensatory damages.

55. Defendant has engaged in discriminatory practices with malice and reckless indifference to the Plaintiff's statutorily protected rights, thereby entitling Plaintiff to punitive damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, requests this Honorable Court:

a) Enter judgment requiring Defendant to pay back wages and back benefits found to be due and owing at the time of trial, front-pay, compensatory damages, including emotional distress damages, in the amount to be proved at trial, punitive damages, and prejudgment interest thereon;

Count III: Age Based Discrimination in Violation of the TCHR

40. Plaintiff re-alleges and adopts, as if fully set forth herein, the allegations stated in Paragraphs 1-39 above.

41. At all times relevant to this action, Plaintiff was in a protected category under the TCHR because of Plaintiff's age.

42. Defendant is prohibited under the TCHR from discriminating against Plaintiff because of his age with regard to discharge, employee compensation, and other terms, conditions, and privileges of employment.

43. Defendant violated the TCHR by unlawfully targeting and discriminating against Plaintiff based on Plaintiff's age.

44. Defendant intentionally discriminated against Plaintiff on the basis of Plaintiff's age.

45. Plaintiff has been damaged by the illegal conduct of Defendant.

46. Defendant's actions have caused Plaintiff to suffer mental and emotional distress, entitling Plaintiff to compensatory damages.

47. Defendant has engaged in discriminatory practices with malice and reckless indifference to Plaintiff's federally protected rights, thereby entitling Plaintiff to punitive damages.

Count IV: Retaliation in Violation of the TCHR

48. Plaintiff re-alleges and adopts, as if fully set forth herein, the allegations stated in

b) Granting Plaintiff costs and an award of reasonable attorneys' fees (including expert witness fees); and

c) Award any other and further relief as this Court deems just and proper.

JURY DEMAND

Plaintiff hereby requests a trial by jury on all triable issues herein.

A handwritten signature in black ink, appearing to be 'M. N.', with a large, sweeping flourish extending from the end of the signature.

2603 Zodiac Drive
Gauland, Tx. 75044

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

DEFENDANTS

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

Dallas

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

Los Angeles

(c) Attorneys (Firm Name, Address, and Telephone Number)

RECEIVED

JUN - 1 2021

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

3-21CV1254-D

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

- | | | | | | |
|--|--|---|--|--|---|
| <input type="checkbox"/> 110 Insurance | <input type="checkbox"/> 310 Airplane | <input type="checkbox"/> 365 Personal Injury - Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 | <input type="checkbox"/> 422 Appeal 28 USC 158 | <input type="checkbox"/> 375 False Claims Act |
| <input type="checkbox"/> 120 Marine | <input type="checkbox"/> 315 Airplane Product Liability | <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability | <input type="checkbox"/> 690 Other | <input type="checkbox"/> 423 Withdrawal 28 USC 157 | <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) |
| <input type="checkbox"/> 130 Miller Act | <input type="checkbox"/> 320 Assault, Libel & Slander | <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability | | <input type="checkbox"/> 820 Copyrights | <input type="checkbox"/> 400 State Reapportionment |
| <input type="checkbox"/> 140 Negotiable Instrument | <input type="checkbox"/> 330 Federal Employers' Liability | <input type="checkbox"/> 370 Other Fraud | | <input type="checkbox"/> 830 Patent | <input type="checkbox"/> 410 Antitrust |
| <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment | <input type="checkbox"/> 340 Marine | <input type="checkbox"/> 371 Truth in Lending | <input type="checkbox"/> 710 Fair Labor Standards Act | <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application | <input type="checkbox"/> 430 Banks and Banking |
| <input type="checkbox"/> 151 Medicare Act | <input type="checkbox"/> 345 Marine Product Liability | <input type="checkbox"/> 380 Other Personal Property Damage | <input type="checkbox"/> 720 Labor/Management Relations | <input type="checkbox"/> 840 Trademark | <input type="checkbox"/> 450 Commerce |
| <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) | <input type="checkbox"/> 350 Motor Vehicle | <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 740 Railway Labor Act | <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 | <input type="checkbox"/> 460 Deportation |
| <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits | <input type="checkbox"/> 355 Motor Vehicle Product Liability | | <input type="checkbox"/> 751 Family and Medical Leave Act | | <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations |
| <input type="checkbox"/> 160 Stockholders' Suits | <input type="checkbox"/> 360 Other Personal Injury | | <input type="checkbox"/> 790 Other Labor Litigation | <input type="checkbox"/> 861 HIA (1395ff) | <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) |
| <input type="checkbox"/> 190 Other Contract | <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | <input type="checkbox"/> 440 Other Civil Rights | <input type="checkbox"/> 791 Employee Retirement Income Security Act | <input type="checkbox"/> 862 Black Lung (923) | <input type="checkbox"/> 485 Telephone Consumer Protection Act |
| <input type="checkbox"/> 195 Contract Product Liability | | <input type="checkbox"/> 441 Voting | | <input type="checkbox"/> 863 DIWC/DIWW (405(g)) | <input type="checkbox"/> 490 Cable/Sat TV |
| <input type="checkbox"/> 196 Franchise | | <input type="checkbox"/> 442 Employment | | <input type="checkbox"/> 864 SSID Title XVI | <input type="checkbox"/> 850 Securities/Commodities/Exchange |
| | | <input type="checkbox"/> 443 Housing/Accommodations | | <input type="checkbox"/> 865 RSI (405(g)) | <input type="checkbox"/> 890 Other Statutory Actions |
| <input type="checkbox"/> 210 Land Condemnation | <input type="checkbox"/> 444 Education | <input type="checkbox"/> 445 Amer. w/Disabilities - Employment | <input type="checkbox"/> 791 Employee Retirement Income Security Act | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) | <input type="checkbox"/> 891 Agricultural Acts |
| <input type="checkbox"/> 220 Foreclosure | | <input type="checkbox"/> 446 Amer. w/Disabilities - Other | | <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 893 Environmental Matters |
| <input type="checkbox"/> 230 Rent Lease & Ejectment | | <input type="checkbox"/> 448 Education | | | <input type="checkbox"/> 895 Freedom of Information Act |
| <input type="checkbox"/> 240 Torts to Land | | | | | <input type="checkbox"/> 896 Arbitration |
| <input type="checkbox"/> 245 Tort Product Liability | | | | | <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision |
| <input type="checkbox"/> 290 All Other Real Property | | | | | <input type="checkbox"/> 950 Constitutionality of State Statutes |

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

Age Discrimination / Retaliation

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPL YING IFP JUDGE MAG. JUDGE